

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 8, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. Donald Steinbeisser (R)
Rep. James Whitaker (R)

Members Excused: Rep. Carol C. Juneau (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Brett Tramelli (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB413, HB493, HB499, HB500,
2/5/2001
Executive Action: HB463, HB493, SB106

HEARING ON HB499

Sponsor: REP. TOM FACEY, HD67, Missoula

Proponents: Peggy Likens, Keep Montana Clean and Beautiful
Mark Taylor, Anheuser-Busch Company
Ralph Denoski, Holnam Cement
Sherrel Rhys, Headwaters Recycling Project

Opponents: None

Opening Statement by Sponsor:

REP. TOM FACEY, HD67, Missoula, said the bill allows a credit against permitting fees for certain uses of post-consumer glass, and establishes a criteria for the use of the glass. He said the recycling rate for glass in Montana is presently 3.7%, while the national average is 24.%. The average price for recycled glass is \$22 per ton, he noted. He presented the committee a summary of the statistics concerning recycled glass. **EXHIBIT (buh32a01)**

Proponents' Testimony:

Ms. Likens stated that recycling is popular and most people would rather recycle than landfill. She presented the committee written testimony. **EXHIBIT (buh32a02)**

Mr. Taylor said the bill is a good start and it creates an incentive. He noted he also served on the Keep Montana Beautiful Board.

Mr. Denoski said his plant recycles approximately 800 tons of glass a year and that it is used as a substitute for sandstone, a natural raw material. He explained 20% of their raw materials were sandstone, and the glass is a very small percentage, but does effect the consumption of a raw material. He said the glass costs a little more to use because of the handling involved. He said the state needs to create incentives to make businesses more willing to pay the extra costs involved. He said his company believes very strongly in recycling and has set out to become a model recycler for Montana.

Ms. Rhys said her project had started out recycling tin, and was pressured to do glass. She noted glass was very heavy so the unit for pricing was by the ton. She said there were no markets for recycled glass in Montana, other than the cement and aggregate companies. She said the state needs to encourage companies to use recycled materials.

Opponents' Testimony: None

Informational Witnesses: Louise Moore, Chief of the Pollution Bureau, said this bill could increase Montana's recycling rate of glass to 20%.

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Donoski** if he needed additional equipment to crush the glass. **Mr. Donoski** said they did not and received the glass whole, then the glass is crushed with the sandstone.

REP. HIMMELBERGER asked **Mr. Donoski** if the glass was derogatory to his product. **Mr. Donoski** said no, the glass was 71% silica and the sandstone was 76% silica, so they were virtually identical. The difference was in the sodium component, he said, which above a certain point would be detrimental to their product. He said the mix was 10% glass and 90% sandstone.

REP. BITNEY asked **Mr. Donoski** how the glass was collected. **Mr. Donoski** said Headwaters Recycling Project collects from nine counties at centrally located community bins. **Ms. Rhys** said they are now collecting as much as they can take. She noted the City of Helena collects glass and takes it to the Ash Grove Cement Plant. She said her group actually loses money on glass but takes it in order to encourage other types of recycling.

REP. GALLIK asked **Mr. Donoski** what happened to the labels and cigarette butts in bottles. **Mr. Donoski** said a 3100 degree Fahrenheit flame burns off all of those materials as the glass goes through the process.

REP. LAIBLE asked **Mr. Donoski** if he would received a \$1500 credit against his fees, what were his total cost of fees. **Mr. Donoski** said he paid \$25,000 in fees. He said this bill is an incentive, not a money maker. He said the credit amounted only to about 5 cents a ton of product.

Closing by Sponsor:

REP. FACEY said Yellowstone and Flathead Counties did not have any glass recycling at all now and HB499 might be an incentive. He suggested this will also ease the space taken up by glass in the landfills.

{Tape : 1; Side : A; Approx. Time Counter : 5.1}

HEARING ON HB493

Sponsor: REP. NANCY FRITZ, HD69, Missoula

Proponents: Andy Sponseller, Rattlesnake Creek Winery
Judith Chapman, Lolo Peak Winery
Christy Blazer, Montana Wine & Beer Wholesalers
Mark Staples, Montana Tavern Assn.
Dennis Himmelberger, HD18, Billings

Opponents: None

Opening Statement by Sponsor:

REP. NANCY FRITZ, HD69, Missoula, called this bill an economic development bill to expand who small wineries can sell to. The bill defines a small winery as producing 25,000 gallons or less.
EXHIBIT (buh32a03)

Proponents' Testimony:

Mr. Sponseller said she started Rattlesnake Creek Winery four years ago. She said they also produce a tomato product. Two years ago they planted grapes and bought equipment from a winery back East. She said this year they will plant two more acres of grapes and plan for a total of eight acres. She said the small wineries need an opportunity to represent themselves in the marketplace. She said her product is all Montana-grown and they do not use any imported juice. They want to market their product inside the state exclusively. She said when Washington extended wholesale privileges to wineries, it was an economic incentive. She told the committee that since she had started working on this bill, two more wineries, one in Plains and one in the Bitterroot, had called her. She said the bill will be good for employers, local people, and for adding value to an agricultural product.

{Tape : 1; Side : A; Approx. Time Counter : 1.8}

Ms. Chapman said she is a second generation Montanan and runs the Lolo Peak Winery which she began in 1998. She uses a combination of honey and fruit such as apples, cherries, rhubarb and plums. She said they now produce 6000 gallons and want to be their own distributor. She said the market will not materialize without her personal interest. She noted Montana needs value-added products for Montana agriculture.

REP. HIMMELBERGER called this a great bill. He said he owned a small brewery in Billings and they were able to distribute their product in the state. He told the committee he would not be in

business today if he could not distribute his own product. He said no one is better able to promote his or her product than the producer of the product.

Ms. Blazer said she had worked on the bill and she believed it was a good bill. She said the bill does not allow for direct shipment of the product by the winery, and that wineries are not allowed to transport the product.

Mr. Staples said he hoped the small wineries would grow to the place where they would want to go with the distribution system in place now. He said the distributors have great community relationships and that is an advantage to getting the products introduced. He supported the small wineries being able to sell their product as called for in the bill.

Opponents' Testimony: None

Informational Witnesses: Neil Peterson, Department of Revenue, was available for questions.

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Staples** about internet and direct consumer sales. **Mr. Staples** said the bill does not effect the ability for the small wineries to export their product outside the state, but that would depend on the other state's liquor laws. He added the bill does not allow direct shipment to a consumer, only to a licensed retailer.

Closing by Sponsor:

REP. FRITZ said she appreciated the testimony and urged the committee to pass the bill.

{Tape : 2; Side : A; Approx. Time Counter : 0}

HEARING ON HB500

Sponsor: REP. DAVID WANZENRIED, HD68, Missoula

Proponents: Gene Fenderson, Montana Joint Heavy and Highway
Equipment
Bob Pavolich, IBEW233
Jerry Driscoll, Building Trades
Fred Dahlman, G.F. Slutton Construction Co.
Pat Pennington, Pennington Construction
Terry Leishman, Local Engineers, #400
Darrel Holser, MT AFL-CIO

Opponents: Ed Maronick, Montana Contractors Assn.
Byron Roberts, Building Industry Assn.
Riley Johnson, NFIB

Opening Statement by Sponsor:

REP. DAVID WANZENRIED, HD68, Missoula, said this bill revises certain provisions of the "little Davis-Bacon laws." The bill changes the prevailing wage from one computed based on a weighted average to one computed based on work performed. It also calls for the posting of the prevailing wage and fringe benefits, and the keeping of certain records for 3 years after completion of work on a project.

Proponents' Testimony:

Mr. Fenderson explained to the committee that historically prevailing wage laws said that workers were not to be paid less than the prevailing wages in the area where they are employed. He said there are 10 wage districts set for building construction in the state. The essence of this bill is how these wages are surveyed and how they are set, he said. Also the wages must be displayed in a public area on the job site, and records must be maintained three years after the job is completed. He said there have been fewer responses to the wage surveys and they were not an accurate report. He said a large building project which took years could delay reporting and not reflect current wages. He said wages have been declining in all 10 districts since 1996, while costs have been rising. He said low construction job wages in Montana were creating the overall low wage figures for Montana.

{Tape : 2; Side : A; Approx. Time Counter : 24.8}

Mr. Pavolich called this a good bill which made sense.

Mr. Driscoll agreed the surveys have not been very accurate.
EXHIBIT (buh32a04)

Mr. Dahlman said his company employed a few over 200 workers, but Montana construction was only about 8% of their work. He testified that building trades are shrinking and seeing a decline. He added the work force is growing older, retiring, and the young people are leaving the state. He said a skilled worker can earn \$21.00 per hour plus benefits in Las Vegas. "It is important for Montana to do something," he said, "because the surveys haven't worked." He told the committee if they passed

this bill, they will prove to the young people of Montana, the legislature wants them to find good jobs and stay here.

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Mr. Pennington supported the bill and agreed with the previous testimony.

Mr. Leishman said he could name a large number of apprentices who have left for better wages. He compared Spokane wages of \$24 an hour to Billings wages of \$16 an hour.

Mr. Holser he strongly supported the bill and the committee had already heard the key issues. He called the bill a fairness issue and said the committee should make sure the taxpayers get an "honest bang for their buck."

Opponents' Testimony:

Mr. Maronick said he opposed the bill as written. He said calculating the wages is the problem. He said this bill would open up to rule-making, and is too broad.

Mr. Roberts said he represented 1500 men and he believed the process should stay in law and not in rule.

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Mr. Johnson said the powers granted to the work force should be set by the legislature and not left to administrative rule.

{Tape : 2; Side : B; Approx. Time Counter : 8}

Informational Witnesses: **Russ Katerman, Department of Administration,** questioned some of the wording in the bill.

{Tape : 2; Side : B; Approx. Time Counter : 12.6}

Questions from Committee Members and Responses:

Closing by Sponsor:

REP. WANZENRIED asked the committee to pass the bill.

{Tape : 2; Side : B; Approx. Time Counter : 17.2}

HEARING ON HB413

Sponsor: **REP. BOB DAVIES, HD27, Bozeman**

Proponents: **Steve Ertelt, Montana Right to Life**
Julie Millam, Montana Christian Coalition

Opponents: Stacey Anderson, Monatanans for Choice and NARAL
J.J. Straight, Planned Parenthood
Beth Brenneman, ACLU
Susan Souvenir, pharmacist
Brian Hefney, pharmacist
Al Smith, Montana Trial Lawyers Assn.

Opening Statement by Sponsor:

REP. BOB DAVIES, said the bill recognizes the right of a pharmacist to refuse to perform an act because of personal, ethical, moral or religious objection and provides for immunity of the person requested to perform the act. The intent of the bill is to allow the pharmacist to invoke a conscience privilege and refuse to dispense certain drugs without fear of losing their job. He said the bill was precipitated by the development of RU-44, called the "abortion pill." He called this bill a religious freedom issue, and urged the committee to pass the bill out of respect for a person's belief.

Proponents' Testimony:

Mr. Ertelt said this was not an abortion issue, but a conscience issue. He said recent events had pointed to a need for this bill. He noted there had been pharmacists fired in California for refusing to dispense drugs against their conscience. He also noted that, as assisted suicide was now legal in Oregon, pharmacists should have the ability to opt out of dispensing drugs for that. He said several pharmacists have faced disciplinary action, but there has only been one court case. In 1996 a Supreme Court Case concerning compassionate suicide did not address the pharmacist's right to refuse, but stated the physician should have the right to refuse to assist in compassionate suicide. He said the pharmacist should have the same right. Pharmacist groups have this right in their bylaws and advocate this right for their members, he said. He read from letters of several pharmacists who could not be there but were in support of the bill. **EXHIBIT (buh32a05) EXHIBIT (buh32a06) EXHIBIT (buh32a07)**

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Ms. Millam said she spoke as a representative of 40,000 households across Montana. She said the bill is a reasonable accommodation of an employee's religious beliefs. She said in a situation such as a Kmart store where one pharmacist would have the right to refuse to dispense a drug, another pharmacist could

fill the prescription. She urged the committee to pass the bill and provide for a reasonable accommodation of religious beliefs.

Opponents' Testimony:

Ms. Anderson said access to comprehensive health care is already a problem in Montana and asked the committee to not complicate it further. She said the only drug which has been approved for abortion must be dispensed in a physician's office. She said pharmacists already have the right to refuse. She said prescriptions are also a privacy matter and druggists should not be involved with how a patient is going to use a certain drug. **EXHIBIT (buh32a08)** **EXHIBIT (buh32a09)** She said this bill will have real life consequences in Montana because many areas have only one pharmacist. She suggested almost every drug could result in an objection by a pharmacist due to "extreme" views or opposition to animal research.

{Tape : 3; Side : A; Approx. Time Counter : 10.6}

Ms. Straight presented written testimony. **EXHIBIT (buh32a10)**

Ms. Brenneman said her organization wanted to defend the rights of all Montanans and that all individuals have the right to religious convictions. She said to insure that all beliefs are acknowledged one cannot force their beliefs on another. She said this bill is not about how pharmacists meet their own health values but it allows them to violate the religious beliefs of others. She said to refuse to dispense contraceptive drugs is gender discrimination.

Ms. Souvenir said she was a pharmacist licensed in three states. She said the pharmacist is the most accessible health professional. Pharmacists have a duty to set aside their own beliefs and be responsible to the public to dispense drugs to meet their needs, she said. "It is not our job to be a moral judge, " she added. She noted it would be unethical for pharmacists to interfere with the doctor/patient relationship because this could cause harm and would be a detriment to the profession.

Mr. Hefney said he had worked in a variety of pharmacies. He said the bill clouds the current legal situation. He said he talked to 80-100 patients a day. Pharmacists build trust with their patients and try not to make judgmental issues, he noted. Patients talk to their pharmacists more than they talk to their doctors, he said. He told the committee if they wanted to block the use of abortifacients, they should ban them , and not try to do it this way.

{Tape : 3; Side : B; Approx. Time Counter : 0}

Mr. Smith said he had legal and professional concerns about the bill. He speculated the bill will make a lot of work for trial lawyers.

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked **Mr. Ertelt** about the fact **Ms. Anderson** said the RU-46 pill is not distributed. **Mr. Ertelt** said it was recently approved and Congress will be debating it soon, so that could change. He said he was also concerned about the other drugs out there, including drugs used in assisted suicide. He said he believed this was of a great concern to pharmacists who would like to opt out of dispensing a drug and did not want to be fired for doing so.

Closing by Sponsor:

REP. DAVIES noted that the ACLU talked about setting aside one's beliefs, and asked the committee how a person could do that. "I couldn't," he said. He asked the committee to consider how a pharmacist would feel, if forced upon pain of losing his or her job, to provide drugs for an assisted suicide. He reminded them the Hippocratic Oath is about providing health.

EXECUTIVE ACTION ON HB493

Motion/Vote: **REP. FRITZ** moved that **HB493 DO PASS**. Motion carried unanimously. 19-0.

EXECUTIVE ACTION ON SB106

Motion: **REP. LAWSON** moved that **SB106 BE CONCURRED IN**.

Discussion: **Motion:** **REP. LAIBLE** moved that **SB106 BE AMENDED**.

Discussion:

REP. MATTHEWS said he wanted to see the bill pass but opposed the amendments because they will make it harder to pass.

CHMN. MCKENNEY said he did not get a sense the proponents had a desire for change.

REP. LAIBLE withdrew his amendment.

REP. GALLIK said there are too many "designer bills" for special interest groups. He asked why this bill should be limited to bankers, and why it couldn't include farm implement dealers. He said as a result of term limits the lobbyists now have the histories of institutional influence. He said the bill will be a prohibition of the free flow of commerce.

REP. STEINBEISSER said it is a good bill and helps the customers as well as the banks.

REP. BROWN proposed an amendment which specifies this action is relative only to contracts .

Motion/Vote: **REP. BROWN** moved that **SB106 BE AMENDED. Motion carried 18-1 with Gallik voting no.**

Motion: **REP. LAWSON** moved that **SB106 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. GALLIK asked again why bankers were being singled out.

REP. LAIBLE said every bill has a special interest. The bills are there because a constituent has addressed an area unfair to them, he said. This happens to be a banking bill which tries to level the playing field, he added.

REP. GALLIK responded he understood why the bankers wanted it, however, his question was why not include others.

Vote: Motion **SB106** carried 12-7 with **Fritz, Gallik, Galvin-Halcro, Juneau, Keane, Musgrove, and Tramelli** voting no.

{Tape : 4; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB463

Motion: **REP. LAWSON** moved that **HB463 DO PASS.**

Discussion:

Motion: **REP. LAWSON** moved that **HB463 DO PASS AS AMENDED.**

Vote: Motion **HB463 AMENDMENT 1** carried unanimously. 19-0.

Motion: **REP. LAWSON** moved that **HB463 DO PASS AS AMENDED.**

Discussion:

REP. LAIBLE said he was concerned the individual could get unemployment benefits and not do anything about the abusive situation. He said it would open up to fraud where the husband could tell the wife to go talk to the clergy and say they were abused, so they could collect money and take a vacation. He said if there were abuse the law should do something to end it, not allow it to continue.

Vote: Motion **HB463 AMENDMENT 2** carried unanimously.

Motion: **REP. LAIBLE** moved **HB463 AMENDMENT 3**.

REP. BOOKOUT-REINICKE and **REP. BROWN** opposed the amendment.

REP. LAIBLE withdrew the amendment.

Discussion:

REP. LAWSON asked about the costs.

REP. BOOKOUT-REINCKE said most abused women are not working and would not be eligible for the unemployment benefits.

REP. BROWN said since there was no fiscal note, the bill must be looked at on its merits. He said for us it is a policy decision and told the committee to leave the funding up to Appropriations.

CHMN. MCKENNEY said he was concerned about the bill and whether it would help or not. He said if someone was suffering from violence, they might receive assistance and still stay in the household. In this case, the bill would merely allow the bad relationship to continue, he said.

REP. BOOKOUT-REINICKE said she would like to see a show of hands of who did not like the bill as it was. She suggested a conceptual amendment which would state they would lose the benefits if they returned to the abusive situation.

REP. KEANE asked if the sponsor of the bill had been asked about this amendment.

CHMN. MCKENNEY said **REP. LEE** was fine with it.

Vote: Motion **carried 15-4** with **Gallik, Galvin-Halcro, Keane, and Musgrove** voting no.

Vote: Motion **HB463 AS AMENDED** carried 18-1 with **Gallik** voting no.

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh32aad)